

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

CAROLINE O'BAR,	:	
Plaintiff,	:	
	:	
-vs-	:	Civ. No. 3:01cv867 (PCD)
	:	
BOROUGH OF NAUGATUCK, <i>et al.</i> ,	:	
Defendants.	:	

RULINGS ON MOTION TO COMPEL AND MOTION FOR SANCTIONS

Presently before this court are plaintiff's motion to compel and motion for sanctions. For the reasons set forth herein, motion to compel is granted in part and the motion for sanctions is denied.

Familiarity with prior discovery rulings and orders is presumed.

I. MOTION FOR AN ORDER COMPELLING DISCOVERY

Plaintiff moves for an order compelling production of disciplinary files and personnel files of defendants Dennis Chisham and Thomas Hunt, in addition to production of records for police officers Jennifer Wilmot, Kelly Grant, Marc O'Mara and Marcus Jacobowski, allegedly officers selected before plaintiff for assignment and evidence of defendants discriminatory practices. Defendant objected to the requests on the grounds of confidentiality of the records and the untimeliness of the request.

A. Standard

"[T]he scope of discovery under FED. R. CIV. P. 26(b) is very broad, 'encompass[ing] any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case.'" *Maresco v. Evans Chemetics, Div. of W.R. Grace & Co.*, 964 F.2d 106, 114 (2d Cir. 1992) (quoting *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351, 98 S. Ct.

2380, 2389, 57 L. Ed. 2d 253 (1978)). “Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” FED. R. CIV. P. 26(b)(1). The scope of discovery, however, is not without bounds, and limitations are imposed where the discovery is “unreasonably cumulative or duplicative,” overly “burdensome . . . [or] expensive” or “the burden or expense of the proposed discovery outweighs its likely benefit.” FED. R. CIV. P. 26(b)(2). An order compelling discovery is rendered after consideration of the arguments of the parties, and such order may be tailored to the circumstances of the case. *Gile v. United Airlines, Inc.*, 95 F.3d 492, 496 (7th Cir. 1996).

B. Analysis

Plaintiff argues that defendants personnel files are relevant for purposes of establishing her claims for negligent training and supervision of the individual defendants by the defendant Borough of Naugatuck. Plaintiff further argues that the remaining personnel files are necessary to establish a baseline for purposes of establishing discriminatory treatment of plaintiff in regard to promotions, special assignments and overtime compensation.

Notwithstanding plaintiff’s technical noncompliance with D. CONN. L. R. 9(d)(3) and the timing of her motion, in order to accommodate both defendants’ confidentiality concerns and plaintiff’s request for discoverable material, and having reviewed plaintiff’s discovery requests and the objections thereto, defendants are hereby ordered to provide the following information responsive to plaintiff’s motion and discovery requests:

1. Details as to any grievances/complaints filed against the individual defendants Dennis

Chisham and Thomas Hunt and the disposition of such complaint/grievance, including the date of complaint, date of disposition and any written product of the proceeding, including notices of proceeding, letters or reprimand/caution and administrative opinions documenting such proceedings, if such exist.

2. As to defendants' records for Jennifer Wilmot, Kelly Grant, Marc O'Mara and Marcus Jacobowski, for the time period of January 1, 1999, through January 31, 2001, provide (1) the date on which each started his/her employment with defendant Borough of Naugatuck, (2) any promotions received by each, including the corresponding dates of selection for and promotion to the higher position, (3) any special assignments given each, including the corresponding dates of selection for and assignment to the position, and (3) overtime accrued by each, including details as to total overtime during the relevant period, dates on which overtime was permitted, and details of assignments on which overtime was permitted, i.e., a short description of the nature of the overtime assignment.

The above information is deemed relevant to plaintiff's claims and discoverable. Information provided in response to the above order is both responsive to plaintiff's discovery requests and sufficiently narrow in scope so as to avoid unnecessary disclosure of confidential information. This Court declines plaintiff's invitation to engage in *in camera* review of the above personnel records to determine if there is otherwise discoverable material in the files. Defendants' shall provide information responsive to the above order within two weeks of the date this order issues.

II. MOTION FOR SANCTIONS

Plaintiff moves to sanction defendants for use of a damages analysis provided to defendants for purposes of settlement discussions. The same document was the subject of this Court's order directing plaintiff to respond properly to defendants' discovery request for an itemized list of damages sustained by plaintiff at which time the document in question was provided. It is thus not apparent that defendants' conduct was wrongful in light of the confusion evidenced by the correspondence between plaintiff and defendants that resulted in that order. In any event, as the subject document was submitted

to this Court as an attachment to motions to compel, plaintiff may not seek sanctions pursuant to FED. R. CIV. P. 11(c). *See* FED. R. CIV. P. 11(d); *N.Y. v. Solvent Chem. Co.*, NO. 83-CV-1401C, 2002 WL 31190938, at *10 (W.D.N.Y. Sep. 27, 2002). The motion is denied.

III. CONCLUSION

Based on the foregoing, plaintiff's motion to compel discovery (Doc. 87) is **granted in part** and plaintiff's motions for sanctions (Doc. 90) is **denied**.

SO ORDERED.

Dated at New Haven, Connecticut, December ___, 2002.

Peter C. Dorsey
United States District Judge